

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/114, 203 07/13/98 MIYANISHI

A 030682-066

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EXAMINER

BAUMEISTER, B

ART UNIT PAPER NUMBER

2815

DATE MAILED:

04/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/114,203

Applicant(s)

Miyanishi et al.

Examiner

William Baumeister

Group Art Unit

2815

 Responsive to communication(s) filed on Dec 14, 1999. This action is FINAL. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

 Claim(s) 1-11 is/are pending in the application.Of the above, claim(s) 2-11 is/are withdrawn from consideration. Claim(s) \_\_\_\_\_ is/are allowed. Claim(s) 1 is/are rejected. Claim(s) \_\_\_\_\_ is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

 See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

 Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

 Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of the Election of Species requirement in Paper No. 5 is acknowledged. The traversal is on the ground(s) that a search of claims which are directed towards various of multiple species would not constitute an undue burden. This is not found persuasive because the MPEP makes clear that absent a showing of relationship between species, they are independent inventions and election of one invention following a requirement for restriction is mandatory even though applicant disagrees with the examiner. MPEP 808.01(a)

a. Applicant further assert that only 5 species--as opposed to 25 species--are present because some of the claims are generic to multiple species. This is not convincing because claims are definitions of inventions. Claims are never species. (MPEP 806.04(e)) Thus, determinations of whether any particular claim is generic to two or more species has no bearing on the number of species disclosed.

The requirement is still deemed proper and is therefore made FINAL.

2. The Office notes that Applicant has stated that Claim 1 is generic to the species shown in Figures 1-7. Applicant further states that claim 4 reads on the species of FIGs 24 and 25 and that claim 5 reads on the species of FIGs 26 and 27. Since claims 4 and 5 depend from claim 1, it would seem that Claim 1 should also be generic to the species depicted by FIGs 24-27. Clarification is requested.

Art Unit:

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Shou et al. '859.

FIG. 3 depicts, e.g., active region PL1 wherein the left MOS-gate is disposed in an ordinary region and the right MOS-gate extends over a portion having a strangulation region S1. The strangulation region causes the margin length of the right gate to be longer than that of the left gate.

**INFORMATION ON HOW TO CONTACT THE USPTO**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, **B. William Baumeister**, whose telephone number is (703) 306-9165. The examiner can normally be reached Monday through Friday, 8:30 a.m. to 5:00 p.m. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

B. William Baumeister  
April 4, 2000

  
Jerome Jackson, Jr.  
Primary Examiner